

**The Ongoing Mission:  
Preserving Trust  
*in the*  
Legal Profession**



**Clients' Security Board  
*of the*  
Supreme Judicial Court  
*of*  
Massachusetts**



**Thirtieth Anniversary  
Report  
(1974-2004)**

THE SUPREME JUDICIAL COURT OF MASSACHUSETTS IS THE OLDEST APPELLATE COURT (1692) IN CONTINUOUS EXISTENCE IN THE WESTERN HEMISPHERE. IT OPERATES UNDER THE OLDEST (1780), STILL FUNCTIONING WRITTEN CONSTITUTION IN THE WORLD.

PRESERVING TRUST IN THE  
LEGAL PROFESSION

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1974

2004

CLAIMS DECIDED

7

159

CLAIMS DISMISSED

2

60

AWARDS MADE

5

99

TOTAL \$\$ AWARDED

\$2,808.00

\$2,412,597.49

CLAIMS PENDING YEAR END

0

107

TOTAL \$\$ AMOUNT OF PENDING CLAIMS

\$0.00

\$12,526,853.85

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## History

By order of the Supreme Judicial Court, the Clients' Security Board opened for business on September 1, 1974.

When it exercised its rule-making authority in 1974, the Court was not working from a blank sheet of paper. The Massachusetts Bar Association already had ten years of experience in reimbursing clients whose lawyers had stolen from them. In June 1964 the MBA created and annually contributed \$10,000 to its little-known Clients' Security Fund.<sup>1</sup> By November 1972 the Fund had paid out almost \$61,000, at which time the MBA increased its annual Fund contribution to \$15,000. The Clients' Security Board absorbed the MBA's Clients' Security Fund in 1974 as a part of the comprehensive restructuring of the state's decentralized system for the governance of lawyers. At the same time, the Court created the Board of Bar Overseers and the Office of Bar Counsel to centralize and to unify lawyer discipline. Funding for all these activities came exclusively from a new mandatory annual registration system ordered by the Court for all Massachusetts lawyers.<sup>2</sup>

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<sup>1</sup> This made Massachusetts the eighth state to create a law client protection program.

<sup>2</sup> The Court wanted these enterprises to be funded solely by lawyers. No taxpayer dollars would be used.

That general structure continues virtually unchanged to this day.

## Features

The Court empowered the new Board:

- to reimburse each claimant loss with out limit,
- to reimburse without limit claims related to an individual lawyer,
- to reimburse claims without imposing a statute of limitations, and
- to actively solicit applications from affected populations which otherwise might never know of the Board and its mission.<sup>3</sup>

The Court displayed remarkable foresight when in 1974, specifically or by implication, it imbued the Board and Fund with every characteristic but one<sup>4</sup> of

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<sup>3</sup> These were not literal mandates in Supreme Judicial Court Rule 4:04 creating the Board and Fund. However, the Rule's language and the Court's consultations with Board leaders allowed for the evolution to these characteristics with no amendment to the original Rule.

<sup>4</sup> All members of the Clients' Security Board are lawyers. No layperson serves on the Board.

the six that would be recommended by the Conference of Chief Justices twenty-five years later.<sup>5</sup>

## Numbers

The table below shows the steep increase in both the number of awards (220%) and dollars awarded (720%) between the first and second decades. The rate of increase slowed between the second and third decades,

DECADE	AWARDS	AMOUNT
1975-1984	215	\$337,594
1985-1994	472	\$6,025,767
1995-2004	694	\$17,974,747
TOTAL	1,381	\$24,838,108 <sup>6</sup>

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<sup>5</sup> A NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM - A REPORT OF THE WORKING GROUP ON LAWYER CONDUCT AND PROFESSIONALISM 21 (January 21, 1999).

<sup>6</sup>During its first thirty years (ended in 2002) the California Client Security Fund paid out \$55 million, more than double the Massachusetts thirty-year figure. However, on a per capita basis using 2002 figures of active lawyers, Massachusetts (46,608 lawyers) paid out 28% more than California (132,452 lawyers): \$533 versus \$415. The variance may be explained by California's limit of \$50,000 per claimant and its four-year statute of limitation for filing a claim.

with the number of awards increasing 147% and the amount awarded increasing only 298%.

Financing the Board of Bar Overseers, the Clients' Security Board and Lawyers Concerned for Lawyers was no simple matter when the sole source<sup>7</sup> of revenue would be a portion of the registration fees<sup>8</sup> paid by Massachusetts lawyers. In 1974-7 the first annual registration fee was \$20. Since then, the Court has increased the annual fee seven times to the current level of \$220.

### Challenge

Not surprisingly, a major part of the need for regular fee increases was the volume of claims filed with the Clients' Security Board. When the Board requested a substantial increase in funding for fiscal year 1990, the Court squarely faced the question whether to retreat from its 100% reimbursement policy. After consultation with the full court, Chief Justice Liacos wrote: "The Justices

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<sup>7</sup> The Clients' Security Board also collects restitution from disciplined lawyers. For the first time in Board history, the amounts collected in each of fiscal years 2003 and 2004 exceeded \$200,000.

<sup>8</sup> In recent years the apportionment has been approximately: Clients' Security Board - 20%; Board of Bar Overseers - 75%; and Lawyers Concerned for Lawyers - 5%.



further feel that the Board should make every effort to maintain the position of the Clients' Security Board in making as full and complete reimbursement as is possible."<sup>9</sup>

To accompany the announcement of the 1998 fee increase, the Justices issued the following statement:

*The operations of the Board of Bar Overseers, the Clients' Security Board, and Lawyers Concerned for Lawyers are crucial in establishing and maintaining the accountability of lawyers for their conduct. An effective disciplinary process assures that the bar and the judiciary are responding appropriately to unethical actions of lawyers and shows the public that improper professional conduct will not be tolerated. In this way, the integrity of the bar is maintained. In reimbursing clients whose lawyers have harmed them by the theft of their funds, and doing so at the full amount of the clients' losses, the bar of the Commonwealth seeks to preserve its integrity and reputation.*

Unambiguous. Apologetic. Unstinting.

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<sup>9</sup> Letter of June 6, 1990 from Paul J. Liacos to the Chair of the Board of Bar Overseers.

### **The Exceptional**

**A**lthough the Supreme Judicial Court was not the first to create a client protection organization, it nevertheless empowered its Board and Fund to exhibit some exceptional features.

### **No Limit on Individual Awards<sup>10</sup>**

During 2000, the Board awarded an individual claimant \$695,480, its largest single award to date.

### **No Limit on Aggregate Awards per Lawyer**

Between 1997 and 2000 the Board awarded more than \$2.25 million with respect to the misconduct of one lawyer and has awarded \$1 million or more to the former clients of three different lawyers.

### **No Statute of Limitations on Filing a Claim**

To recognize that the discovery of lawyer theft may be delayed for a wide variety of reasons, the Board rejects no claim as untimely filed.

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<sup>10</sup> Among the forty-four states with the largest lawyer populations, Massachusetts is the only one without limits on awards to individual claimants. It is one of only three states without limits on the maximum payout per defalcating lawyer.

### **Monthly Meetings and Frequent Hearings**

Almost every monthly meeting includes one or more hearings attended by claimants, sometimes alone but more often accompanied by counsel. Although always invited, rarely does a disciplined lawyer appear. The Board requests that claimants appear in person when the available documents leave questions unanswered, when the credibility of the claimant is critical to the claim or when the amount claimed is substantial.

### **William J. LeDoux Award**

Mr. LeDoux served on the Board for ten years, including seven as Chair. In 1997 the Board established an annual award in his name to honor a lawyer who, serving *pro bono*, exhibits special devotion, skills and perseverance in representing a claimant before the Board. The Supreme Judicial Court graciously opens its courtroom for the award presentation which is made by one of the Justices.

### **The Day-to-Day**

#### **Outreach to Potential Claimants**

**A.** In September 2002 a young Vietnamese lawyer died in Boston. His death left considerable confusion and dismay among his clients whose funds were missing. The Board contacted leaders in the Vietnamese community, who recommended a Saturday morning meeting at a

community center where Board staff explained (through interpreters) the role and function of the Board. With the generous assistance of volunteer lawyers fluent in Vietnamese, the Board placed an ad announcing the meeting in Vietnamese in the major community newspaper. The meeting and its ripple effect generated more than fifty-five claims. One topped \$500,000 but many were for amounts of \$1,500 or less. The Board now has on its web site claim application forms in Vietnamese.<sup>11</sup>

**B.** During 2001-02 the Board confronted \$7.9 million in claims related to misappropriations by one well-known Boston lawyer. While researching the bankruptcy court files of the lawyer and his former firm, Board staff discovered several proofs of claim that could possibly be valid Board claims. In order to generate an accurate picture of the Fund's potential exposure to all claims, the Board took the unprecedented action of sending informational letters to twenty individuals who had filed proofs of claim in bankruptcy court but had not yet filed claims with the Board. As a result, eight individuals filed claims aggregating an additional \$1,404,000.

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<sup>11</sup> The Board also provides Spanish language claim application forms on the web site.

### **Outreach to Actual Claimants**

The Clients' Security Board conducts its monthly meetings at its office in Boston. However, when the Board encounters a concentration of claimants in a community outside Boston, the trustees "ride the circuit" and conduct hearings in a community close to the claimants to minimize hardship and to maximize access to the Board. To respond to the needs of claimants who do not speak English, the Board's staff works with claimants' bilingual family and friends for interpretative assistance. If a claimant lacks such a support system, the staff turns to that claimant's home country consulate for assistance.

### **Publicity Outreach**

During 2002 the Board expanded the distribution of its annual report (in hard copy and electronic versions) reaching eighty-nine local bar associations, more than 350 public and community libraries, 244 newspaper publications and thirty-one TV and radio stations. Distribution was made to law libraries, courts, prosecutors, and a wide range of service organizations. Board members also have appeared on public access television and cooperate with commercial television in programs designed to educate the public about the mission of the Board.

### **Training and Education of Board Members**

By means of periodic Board retreats, organizational membership in the National Client Protection Organization and funded attendance at its regional law client protection meetings as well as attendance at the ABA Forum on Client Protection, Board members enhance their knowledge and understanding of the issues facing other client protection programs and exchange insights and experiences with their counterparts from other jurisdictions.

### **Full-time Counsel**

For almost twenty years the Board has had at least one counsel to investigate and research claims, prepare written memoranda on claims, pursue restitution, assist in outreach and do the scores of other things in-house counsel do. Today, three individuals supply the equivalent of two full-time counsel to the Board.

### **Annual Meetings with the Supreme Judicial Court**

The entire Court meets annually with the Clients' Security Board and staff counsel to enable all of the justices to hear directly from the trustees and to offer them counsel, guidance and encouragement.

## Disciplined Lawyers

Who are the disciplined lawyers whose misconduct required the payment of almost \$25 million over the last three decades? There are no easy answers. They are veterans and neophytes. Some practiced in paneled offices with oriental carpets and some out of the trunks of their cars. They attended the very best law schools and those less well known. Some were renowned in the legal community; most were not well known. There is no discernable pattern. However, most of them needed money: to feed an addiction; to ward off bankruptcy; to support a secret life; to keep up appearances. On account of three disciplined lawyers, the Board paid out more than \$1 million each. Those three individuals alone accounted for more than 21% of the nearly \$25 million dollars awarded over thirty years.

NAME	TOTAL AWARDED	NO. OF CLAIMS
WALTER PALMER	\$2,256,764	13
JAMES RICHARD LOCKE	\$1,583,641	43
FRED DELLORFANO	\$1,450,404	9
TOTAL	\$5,290,809	65

While those numbers are shocking, it is important to recall that Massachusetts has the sixth-largest lawyer population among the fifty states.<sup>12</sup> However, in any given year the number of lawyers whose misconduct triggers the awards is in the vicinity of one-twentieth of one percent of the forty-seven thousand active lawyers in the Commonwealth. Nevertheless, those few individuals inflict damage vastly disproportionate to their numbers.

### Reimbursed Clients

Over the last three decades 1,381 individuals received awards because of the misconduct of their former lawyers. Who are they? What do they have in common? Again, there are no easy answers. They span a wide gulf: from young to old; rich to poor; the unemployed to corporate executives; those who never completed grade school to PhD's. However, while different in so many ways, the clients all share one common trait: trust. They all trusted their lawyers.

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<sup>12</sup> Massachusetts ranks thirteenth in total population according to July 2002 figures of the U. S. Census Bureau.



“The Clients’ Security Board is the face of the Bar to lawyers’ victims. Whatever the public perception may be, clients trust their lawyers because they are lawyers. Claimants appear before the Board and invariably explain the circumstances that enabled the lawyer to steal: ‘He was my lawyer, I trusted him’ or, ‘Of course I trusted her, she was a lawyer.’”

*Joseph D. Steinfield, Esq.  
Clients’ Security Board Member (1998-2003)  
Chair of the Board (2002-2003)*

Here is a sample of reactions from claimants after receiving their awards.

“I would like to express my sincere appreciation for your time, your review and your decision . . . [It] changed my life, my outlook, and my belief in the judicial system.”

*(CSB Claimant 2003)*

“My daughter and I want to express our appreciation for all of your patience and help over the past year. Keep up your wonderful work.”

*(CSB Claimant 1997)*

“It was very unfortunate that my attorney placed his needs ahead of his client’s, but [I am] very fortunate that an organization of attorneys not only recognize that these problems exist, but remedy those wrongful acts.”

*(CSB Claimant 2001)*

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### Lawyers for Claimants

All lawyers representing claimants before the Board must do so *pro bono publico*. Between 2002 and 2004 an average of twenty-nine lawyers per year represented claimants before the Board. For their valuable and selfless assistance, known to only a few, the Board is most grateful.

### Board Members

Forty-three members of the bar have served as members of the Clients' Security Board during the last thirty years. They come from ten of the Commonwealth's fourteen counties representing 90 % of the population. They range from sole practitioners to partners in some of the largest law firms in the nation. Their expertise is wide-ranging and includes litigation, real estate, banking, trusts and estates, and bankruptcy. These men and women serve as uncompensated volunteers for a five-year term, during which they:

- attend monthly meetings averaging four to five hours each;
- take turns serving as the Board's individual designated hearing officer for a month at a time;
- attend national conferences on client protection; and,
- meet annually with the Supreme Judicial Court.

Taking into account preparation time, each Board member devotes approximately five hundred hours to the painstaking work of restoring public trust in the profession.

## **Conclusion**

**A**s the title of this report suggests, the mission of preserving trust in the legal profession is permanent. The honest answer to the question: “Will it ever end?” is “No.” Not as long as the members of the legal profession are fallible men and women.

The highest possible level of client protection can be achieved in a given jurisdiction only with the active and committed support of its highest court and the unstinting commitment of lawyers to serve as Board members, to represent claimants before the Board and to pay registration fees sufficient to reimburse client-victims for 100% of their loss.

All Massachusetts lawyers have ample reason to feel justly proud that the Commonwealth’s Clients’ Security Board and Fund are so highly regarded by other client protection programs across the country.

The fourth decade begins and the work continues.

**William J. LeDoux Award  
Winners**



Peter H. Sutton (1998)  
Riemer & Braunstein  
Boston



Nathan H. and  
Charles F. Proctor (1999)  
Oxford



Thomas G. Hoffman (2000)  
Hoffman & Greene  
Boston



Douglas W. Salvesen (2002)  
Yurko & Salvesen, PC  
Boston



Jerry Cohen (2003)  
Perkins, Smith & Cohen, LLP  
Boston



Laura Hancock Barry (2004)  
Fletcher, Tilton & Whipple, PC  
Worcester



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**CLIENTS' SECURITY BOARD  
MEMBERS**

**1974-2004**

Philip J. Assiran (1981-1983)  
George N. Beauregard (1982-1986)  
Barry D. Berkal (1981-1986)  
Mark N. Berman (1997-2002)  
Stanley B. Bernstein (1992-1996)  
Mark I. Berson (1995-2000)  
Thomas H. Collins (1974-1981)  
J. Elizabeth Cremens (1987-1992)  
Judith A. Cross (1988-1998)  
Peter G. DeGelleke (2003- )  
Charles R. Desmarais (1974-1980)  
Merrilynn R. Douglas (1989-1994)  
Patricia M. Dunbar (1997-1999)  
Harrison A. Fitch (1986-1993)  
John R. Gobel (2001- )  
Joel S. Greenberg (1980-1989)  
Edward B. Hanify (1974-1979)  
Paul F. Hannah (1974-1976)  
Ruth-Arlene W. Howe (1983-1988)  
Raymond J. Kenney, Jr. (1979-1987)  
Jeanne Koehr (2004- )  
Maria J. Krokidas (1979-1984)  
Elizabeth O'Neill La Staiti (1982-1986)  
William J. LeDoux (1987-1997)  
Edward J. Lee (1987-1992)  
S. Thomas Martinelli (1975-1977)  
Edward W. McIntyre (1999-2004)  
Stanley B. Milton (1974)  
Guy B. Moss (2002- )  
Frederick L. Nagle, Jr. (1990-1995)  
Loretta Sullivan O'Brien (1992-1997)  
Kathryn A. O'Leary (2004- )  
Thomas E. Peisch (1994-1999)  
Dorothy G. Sanders (1992-1997)  
Mary H. Schmidt (1997-2002)  
Edward D. Simsarian (1984-1989)  
Thomas G. Sitzmann (1996-2001)  
Joseph D. Steinfield (1998- 2003)  
Peter H. Sutton (2000- )  
Evelynne L. Swagerty (1999-2004)  
Berge C. Tashjian (1978-1980)  
Charles Y. Wadsworth (1977-1979)  
Lucy W. West (2002- )

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BOARD